

**IN THE UNITED STATES DISTRICT COURT
THE MIDDLE DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION**

VFS LEASING CO.,)	
)	Case No. 2:10-cv-0055
Plaintiff,)	
)	Judge Trauger
v.)	
)	
K&K TRUCKING, INC.; DONNY W. KEMP)	
aka DONNY WAYNE KEMP; J.E.A.)	
LEASING, LLC,)	
)	
Defendants.)	

ENTRY OF DEFAULT IN PART

Pending are Plaintiff's Requests for Entry of Default against Defendants (Docket Entries 15-17). It appears that service has been made upon the Defendants and returns of service have been filed with the Court (Docket Entries 8-10). Defendants have not responded to the Complaint against them. However, the request for entry of default against Defendant Donny W. Kemp must be denied. The request as to Defendant Kemp is not supported with an affidavit of military service as required by the Servicemembers Civil Relief Act of 2003 (50 App. U.S.C. 501 et seq.). The Act requires that affidavits be submitted that "state whether or not the Defendant is in military service and **showing facts necessary to support the affidavit**" (emphasis added). Information on the military status of an individual can be obtained at the Department of Defense website at <https://www.dmdc.osd.mil/appj/scra/scraHome.do>. That website provides an on-line search utility (SSN required) as well as a help button link that provides information on where requests for information can be sent (no SSN required) to determine whether a particular individual is on active duty in the military. Alternatively, a sworn statement or declaration from the Defendants or someone

in a position to know the military status of the individual could be accepted. Other factors, such as the age of Defendant if beyond the age for service can be considered.

Accordingly, for the reasons stated above, the Clerk declines to enter default against Defendant Donny W. Kemp at this time. Plaintiff may file a renewed request for entry of default against Defendant Kemp when an affidavit of military service has been provided.

The Clerk will enter default against Defendants K&K Trucking, Inc. and J.E.A. Leasing, LLC. Those Defendants are artificial entities not subject to military service. Accordingly, default is hereby entered against K&K Trucking, Inc. and J.E.A. Leasing, LLC. pursuant to Federal Rule of Civil Procedure 55(a). This is an entry of default only. Default judgment must be sought pursuant to Federal Rule of Civil Procedure 55(b).

s/ Keith Throckmorton
Keith Throckmorton
Clerk of Court